

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI**

EDWARD F. PLASTINO and  
SECOND AMENDMENT FOUNDATION, INC.,

Plaintiffs,

v.

Case No. 4:12-CV-01316-CAS

CHRIS KOSTER, in his Official Capacity as  
Attorney General of the State of Missouri, and  
TOM NEER, in his Official Capacity as  
Sheriff of St. Charles County, Missouri,

Defendants.

**DEFENDANT TOM NEER'S ANSWER AND AFFIRMATIVE DEFENSES**

COMES NOW Defendant Tom Neer in his official capacity as Sheriff of St. Charles County, Missouri, and for his Answer and Affirmative Defenses to Plaintiffs' Complaint states as follows:

**INTRODUCTION**

1. Paragraph 1 states the nature of the Complaint and requires no answer.
2. Paragraph 2 states a conclusion of law to which no answer is required.
3. Paragraph 3 states a conclusion of law to which no answer is required. To the extent that Paragraph 3 contains allegations of fact, Defendant denies the same.
4. Paragraph 4 states the relief sought by Plaintiffs and a conclusion of law and requires no answer.

**JURISDICTION AND VENUE**

5. Paragraph 5 states a conclusion of law to which no answer is required. To the extent that Paragraph 5 contains allegations of fact, Defendant denies the same.

6. Paragraph 6 states a conclusion of law to which no answer is required. To the extent that Paragraph 6 contains allegations of fact, Defendant denies the same.

7. Paragraph 7 states a conclusion of law to which no answer is required. To the extent that Paragraph 3 contains allegations of fact, Defendant denies the same.

**PLAINTIFFS**

8. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 8 and therefore denies same.

9. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 9 and therefore denies same.

10. Paragraph 10 states a conclusion of law to which no answer is required. To the extent that Paragraph 10 contains allegations of fact, Defendant denies the same.

11. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 11 and therefore denies same.

12. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 12 and therefore denies same.

13. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 13 and therefore denies same.

14. Admitted that Chris Koster is the Attorney General of the State of Missouri. The remaining allegations contained in Paragraph 14 state conclusions of law to which no answer is required. To the extent that Paragraph 14 contains other allegations of fact, Defendant denies the same.

15. Admitted that Defendant Tom Neer is the Sheriff of St. Charles County, Missouri, and that he is the authority charged with processing and issuing concealed carry applications and

permits in St. Charles County. The remaining allegations contained in Paragraph 15 state conclusions of law to which no answer is required. To the extent that Paragraph 15 contains other allegations of fact, Defendant denies the same.

### **CONSTITUTIONAL PROVISIONS**

16. Defendant admits that the Second Amendment reads as set forth in Paragraph 16.

17. Paragraph 17 states a conclusion of law to which no answer is required.

### **STATE LAW**

18. Defendant admits that Section 571.101.2(1), RSMo, reads as set forth in Paragraph 18.

19. Defendant admits that Section 571.030.1(1), RSMo, reads as set forth in Paragraph 19.

20. Defendant admits that Section 571.030.7, RSMo, reads as set forth in Paragraph 20.

21. Defendant admits that Section 558.011.1(4), RSMo, reads as set forth in Paragraph 21.

### **COUNT I – VIOLATION OF EQUAL PROTECTION**

22. Defendant's answers to Paragraphs 1 through 21 are realleged and incorporated herein by reference.

23. Denied.

### **COUNT II – VIOLATION OF RIGHT TO KEEP AND BEAR FIREARMS**

24. Defendant's answers to Paragraphs 1 through 23 are realleged and incorporated herein by reference.

25. Denied.

**COUNT III – FEDERAL PREEMPTION**

26. Defendant's answers to Paragraphs 1 through 25 are realleged and incorporated herein by reference.

27. Denied.

28. Denied.

**FOR ALL COUNTS**

29. Defendant's answers to Paragraphs 1 through 28 are realleged and incorporated herein by reference.

30. Paragraph 30 states a conclusion of law to which no answer is required.

31. Paragraph 31 states a conclusion of law to which no answer is required.

32. Paragraph 32 states a conclusion of law to which no answer is required.

33. Paragraph 33 states the relief sought by Plaintiffs and requires no answer.

34. Paragraph 34 states a conclusion of law to which no answer is required. To the extent that Paragraph 34 contains allegations of fact, Defendant denies the same.

35. Denied.

36. Paragraph 36 states a conclusion of law to which no answer is required. To the extent that Paragraph 36 contains allegations of fact, Defendant denies the same.

**AFFIRMATIVE DEFENSES**

1. Plaintiffs fails to state a claim upon which relief may be granted against Defendant Sheriff Neer: (1) for violation of Equal Protection; (2) for violation of the Second Amendment as it does not apply to or otherwise authorize the carrying of concealed weapons; or (3) for federal preemption in that no federal immigration law preempts the regulation by the State of Missouri of the carrying of concealed weapons.

2. Plaintiff Plastino has failed to exhaust his available state remedies by utilizing the concealed carry permit application denial appeal process of Section 571.114, RSMo, prior to filing his Complaint.

3. Plaintiff Second Amendment Foundation, Inc., lacks standing against Sheriff Neer.

Wherefore, Defendant Sheriff Tom Neer having fully answered, Defendant prays that this Court dismiss the Complaint and grant him his attorney's fees and costs.

**OFFICE OF THE ST. CHARLES  
COUNTY COUNSELOR**

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> day of September, 2012, a true copy of the foregoing was delivered through the Court's electronic filing system, according to the information available on the system at the time of filing, or sent directly by e-mail, to the following:

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